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Message Text

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15
ACTION EB-11

INFO OCT-01 EA-11 ISO-00 L-03 DOTE-00 CAB-09 CIAE-00

COME-00 DODE-00 INR-10 NSAE-00 RSC-01 FAA-00 PA-04

USIA-15 PRS-01 SPC-03 SAM-01 SS-20 NSC-10 DRC-01 /101 W
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R 010650Z MAR 74
FM AMEMBASSY TOKYO
TO SECSTATE WASHDC 300
INFO AMCONSUL OSAKA KOBE

LIMITED OFFICIAL USE TOKYO 2724

E.O. 11652: N/A
TAGS: ETRN, JA
SUBJECT: CIVAIR: NOISE HAZARD CASE DECIDED BY OSAKA DISTRICT COURT

SUMMARY. OSAKA DISTRICT COURT HAS HANDED DOWN DECISION IN CASE INVOLVING NOISE HAZARD COMPLAINTS OF RESIDENTS IN VICINITY OF OSAKA INTERNATIONAL AIRPORT. DECISION WAS SOMEWHAT OF A COMPROMISE BETWEEN PUBLIC INTEREST AND RIGHTS OF CITIZENS TO PROTECTION AGAINST NUISANCE OF AIRCRAFT NOISE, WITH PUBLIC INTEREST GIVEN GREATER WEIGHT. DECISION WILL NOT REPEAT NOT RESULT IN DECREASE OF FLIGHT OPERATIONS AT OSAKA. END SUMMARY.

1. AFTER FOUR YEARS OF LITIGATION INVOLVING NOISE COMPLAINTS, OSAKA DISTRICT COURT ON FEB 27 ORDERED JAPANESE GOVERNMENT TO IMPOSE CURFEW BETWEEN 10:00 P.M. AND 7:00 A.M. ON FLIGHT OPERATIONS AT OSAKA INTERNATIONAL AIRPORT. IN ADDITION, GOVERNMENT IS REQUIRED TO COMPENSATE PLAINTIFFS (264 RESIDENTS IN AIRPORT VICINITY) WITH LUMP SUM PAYMENT AVERAGING ABOUT $1,600 EACH. ON BOTH POINTS, DECISION FAILED TO MEET FULL DEMANDS OF PLAINTIFFS, WHO HAD ASKED FOR CURFEW BETWEEN 9:00 P.M. AND 7:00 A.M., LUMP SUM SOLATIUM OF $1,800 EACH, AND MONTHLY COMPENSATION OF $36 EACH UNTIL GOVT PROHIBITS FLIGHTS GENERATING MORE THAN 65 PHONS.

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2. COMMENT. JCAB HAS BEEN ADMINISTRATIVELY ENFORCING (VERY

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STRICTLY ACCORDING TO PAN AM/TOKYO REP) A 10:00 P.M. TO 7:00 A.M. CURFEW AT OSAKA FOR PAST YEAR. THUS, ACCORDING TO JCAB (TOYA, DEPUTY DIRECTOR, INTERNATIONAL AFFAIRS DIV) COURT'S DECISION WILL NOT INVOLVE ANY MANDATORY CUTBACK OF PRESENT LEVEL OF FLIGHT OPERATIONS AT OSAKA, EITHER BY DOMESTIC OR INTERNATIONAL CARRIERS. ON OTHER HAND, BY MAKING THE CURFEW MANDATORY, DECISION STRENGTHENS JCAB'S HAND IN CARRYING OUT ITS POLICY OF DISALLOWING ADDITIONAL FLIGHTS INTO AND OUT OF OSAKA BY SCHEDULED CARRIERS. (IN A RECENT APPLICATION OF THIS POLICY, WHEN JCAB DENIED A REQUEST BY CATHAY PACIFIC TO OPERATE A NEW DAILY SERVICE BETWEEN OSAKA AND SEOUL, THE U.K. GOVERNMENT RETAILIATED BY WITHDRAWING JAL'S RIGHT TO STOP AT HONG KONG ON ITS TOKYO-HONG KONG-MANILA-SYDNEY ROUTE.) TOYA SAID THIS POLICY WILL CONTINUE TO BE RIGIDLY FOLLOWED EVEN THOUGH FLIGHT FREQUENCIES ARE EXPECTED TO DECLINE WHEN JAL AND ALL NIPPON AIRWAYS BEGIN OPERATING NEW WIDEBODIED JETS ON DOMESTIC ROUTES IN RELATIVELY NEAR FUTURE.

3. POSSIBLE IMPLICATIONS FOR AIRLINES OF COURT'S AWARD OF COMPENSATION ARE LESS CLEAR. TOTAL AWARD AMOUNTS TO 112,085,000 YEN (APPROX $400,000). WHILE JUDGMENT REQUIRES PAYMENT TO BE MADE BY GOVERNMENT, AIRLINES INCLINED TO BELIEVE COST WILL BE PASSED ON TO THEM IN FORM OF SPECIAL ASSESSMENT OR INCREASE IN USER CHARGES. HOWEVER, THERE ARE NO INDICATIONS FROM GOVERNMENT SIDE AT MOMENT HOW THIS ISSUE WILL DEVELOP.
SHOESMITH

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TAGS: ETRN, JA
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